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Hon. Levi Woodbury. 1894.

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Woodbury

MEMOIR

OF

HON. LEVI WOODBURY, LL.D.

BY

CHARLES LEVI WOODBURY.

Reprinted from the New-England Historical and Genealogical Register
for Jan., 1894.

BOSTON:
DAVID CLAPP & SON, PRINTERS.
115 HIGH STREET.
1894.

Wc 1'993, 1.5

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MEMOIR OF HON. LEVI WOODBURY, LL.D.

It was observed by your Committee on Publication that although a memoir of Gov. Woodbury of New Hampshire had been published in the first volume of their Memorial Biographies, yet that the volumes of the Register contained no adequate notice, and the writer was requested to supply a brief capitulation of this gentleman's career. Besides the memoir above referred to, three volumes of the writings, speeches, lectures and judicial opinions of Levi Woodbury were published immediately after his death. The congressional debates in which he participated, the Reports of the United States Supreme Court, Woodbury and Minot's Reports of the Circuit Court, and the documents submitted by the Treasury Department to Congress, will supply much not included in these volumes. His correspondence has not been edited.

Levi Woodbury was born in Francestown, New Hampshire, Dec. 2, 1789. His father, the Hon. Peter Woodbury, in youth had settled there, where he became a successful merchant and farmer. For thirty years he was an active magistrate, justice of the peace and quorum for the county, which he also several times represented in the senate. The family were descendants of John Woodbury, who settled at Cape Ann, 1623–4, and was one of "the Old Planters" who settled Salem, 1626–7, before the Bay Charter was granted. Under the charter government Woodbury was elected a freeman of the Corporation, and several times a deputy of the General Court. He also held many other public employments until his death in 1641. He was one of the five Old Planters to whom 1000 acres was granted in that part of Salem afterwards incorporated as Beverly, where he and his brother William planted and their descendants multiplied.

The descent of Mr. Woodbury in the male line is briefly: John[1] Woodbury; his youngest son Peter,[2] bapt. 19. 2. 1640; his son Josiah,[3] born June 15, 1682; his son Josiah,[4] born Feb. 16, 1708–9; his son Peter,[5] born March 28, 1738; his son Peter,[6] born Jan. 17, 1767, who married Mary Woodbury. These last were the parents of Levi.[7] Mary, his mother, was descended from Peter,[2] through his son Peter,[3] born in 1664, whose son Peter,[4] born 1705, was father of James,[5] born 1738, who was father of Mary. James Woodbury, grandfather of Levi, had served in the French war at Lake George, and was also one of the provincial rangers who were with Wolfe

the next year at the capture of Quebec. Each grandfather was born in Beverly, and James settled in Narraganset No. 4 (Amherst), in 1765 or '6, on land given him by his father in the part now Mt. Vernon.

As Peter signed a petition in 1770 relative to town affairs in Amherst, he was already living there. He was an ardent rebel, and was a member of Capt. Taylor's company that marched from Amherst in Dec. 1775, to Winter Hill. His name is fifth on the list of those in Amherst who in April, 1776, pledged to resist with arms and fortune the encroachments of the British parliament on American liberty. He was of the legislature who formed the first Constitution of New Hampshire in the name of the people, and was frequently on the Committee of Public Safety. Two of his sons, Levi and Jesse, served in the army and afloat under the flag, and the youngest, Peter, enlisted at the age of thirteen years, but his father stopped it.

James Woodbury was a signer in 1776 of the pledge to resist with arms, also was on committees and other public service during the revolution. The blood of other families of the settlers of Essex County before 1641, through the wives of his ancestors, flowed in his veins; such as Richard and William Dodge, Conant, William Woodbury, Herrick, Batchelders, Osmond Trask, Goodells, &c., also the Ipswich families of Perkins, Rogers, Wade and Burnham. Many also of respected individuals in Massachusetts, Maine and New Hampshire were allied through their descent from females of the Woodbury stock. These facts show that Mr. Woodbury was thoroughly of that early New England stock whose memory the REGISTER seeks to preserve.

The subject of this notice was the second of ten children born to his parents, and was named after his uncle Levi, who had been captured in the privateer *Essex*, and died in Dartmoor prison in England near the close of the revolutionary war. He entered Dartmouth College, was graduated with distinction in 1809, and entered on the study of law, which he pursued under Judge Gould at Litchfield, Conn., Hon. Samuel Dana at Boston, and Hon. Jeremiah Smith at Exeter, N. H. Whilst a student he had acquired considerable local celebrity by speeches and resolutions at war meetings in his native county, and September, 1812, he commenced the practice of law at Francestown with industry and met with success. In 1817 he was elected clerk of the Senate, and became one of the trustees under the new act as to Dartmouth College. In course of the same year he was appointed one of the associate justices of the Supreme Court of New Hampshire. In conjunction with Chief Justice Richardson he prepared the first three volumes of the Reports of that state.

In 1819 he married Miss Elizabeth W. Clapp, the daughter of the Hon. Asa Clapp of Portland, Maine, and removed his residence to

Portsmouth, the old provincial capital of the state. In 1822 he was nominated for governor, and elected,—the vote in the town of his residence being Levi Woodbury 900, all others 34. In June he was inaugurated as governor. In his inaugural he says, "Among the most sacred of those principles my education and political faith have always led me to rank the general diffusion of knowledge, equality of rights, liberty of conscience, and a strict accountability of all public servants." These objects he pursued through his whole public career. In 1823 the New Hampshire Historical Society was formed with Gov. Plumer as president and Mr. Woodbury vice president. Next year he became its president, and always took a great interest in its objects. In 1824 he was defeated for governor, and returned to his profession. In 1825 he was elected from Portsmouth to the legislature, which elected him speaker, and before the close of its session he was elected to the United States Senate. His industry and capacity shown in committees and in debate soon placed him among the most vigorous of the Democratic cohort. On his inauguration Gen. Jackson tendered him the mission to Spain, which he declined. He declined being a candidate for re-election, but a few days after the close of his term he was elected to the state senate. Gen. Jackson re-organized his cabinet in May, 1831, and invited Mr. Woodbury to take the portfolio of the navy department, which he accepted, and entered on its duties. Having served some years on the naval committee, Mr. Woodbury was not unprepared for the duties of the office. He despatched a frigate to chastise the Malays at Quallah Buttoo who had plundered a Salem ship; made a valuable report on the live oak supply of the country, introduced the commuting of the spirit ration of the sailors for money, re-organized the method of alloting service among the officers, revised the Navy regulations, and restrained the power of subordinate officers to inflict punishment on sailors. He visited personally all the navy yards of the United States, and despatched a sloop-of-war to carry Mr. Roberts, the agent, to conclude commercial treaties with Siam and Muscat. He also sent a fleet to Charleston to sustain the custom authorities against the nullifying threats of resistance by some sugar importers, and provided a ship-of-the-line to support our minister, Mr. Nelson, in the Bay of Naples in enforcing demands for indemnity on the Neapolitan government. His plans for the gradual improvement of the navy and for better administration of its affairs were much commended.

The petition of the United States Bank for a re-charter, and the withdrawal of the treasury deposits, raised an intense political excitement. The nomination of Mr. Taney as Secretary of the Treasury was rejected by the Senate. Mr. Woodbury then was nominated for that post, and confirmed without objection; he held the position during the remainder of Gen. Jackson's term, and having been re-appointed by Mr. Van Buren, held it during his adminis-

tration. During all this time political controversy focused on the fiscal policy of the United States, and the Secretary was consequently the objective point of attack from the opponents of the administration. Any history of the controversy is too long for this article, but it ended with a final divorce of the government from dependence on the banks for keeping its revenues, and the enactment of the sub-treasury system. Before the end of Gen. Jackson's term Mr. Woodbury had the satisfaction of seeing the national debt paid in full. The "specie circular" and "the gold bill" show his efforts to strengthen the specie basis of the country. The distribution of the surplus revenue among the states contrary to his remonstrance, brought on the suspension of the banks in 1837. Deprived of the revenue in their hands, and forbidden by law to use the depreciated paper of the banks, the public credit was in danger, but under his guidance the treasury weathered the storm. "The public credit was maintained without the aid, almost in defiance of the moneyed classes" (R. Rantoul, Jr.). The struggle between fallacies and truth had logically led to the first sub-treasury law, whereby the government kept in its own possession the revenues it collected, and disbursed from its own treasury. It was re-enacted in 1846 as the Independent Treasury, and is still the basis of the treasury system. The use of banks by the treasury, authorized in the war of secession, is practically, but not exclusively, relegated to negotiations concerning loans and war debt. Mr. Woodbury, by remarkable industry and excellent methods of business, was able to give due attention to the numerous miscellaneous subjects in charge of his department, many of which may be seen in some dozen or two volumes of treasury documents emanating during his term. Among these I will refer to a report on the rise and progress of cotton industry in the United States, and to another on the losses sustained from banks and bank paper.

In 1838 he was offered and declined the chief justiceship of New Hampshire. In 1840 Mr. Van Buren was defeated for re-election, and in the winter after New Hampshire elected Mr. Woodbury to the United States Senate. So on his retirement from the cabinet he began his term March 4, 1841, as senator. A question was informally submitted to him whether he had not lost his residence in New Hampshire by his absence on public business and thus become ineligible. He prepared and showed senators a brief on the point, which they considered conclusive, and no motion was made in the senate, nor has the point again been mooted. An extra session of Congress was called, when Mr. Woodbury at once took ground against the charges made on the late administration, and the new policy projected in the finances with such thorough information and logical force as materially aided to renew the confidence of the defeated democracy. The plans to re-charter a United States bank were vetoed by President Tyler, and the democrats appealed to the

people to repeal what else the Whigs had enacted. The campaign of 1844 opened on the old issues, and on the annexation of Texas, which he had supported in the senate and advocated before the people. The democrats were successful, and President Polk tendered the mission to the Court of St. James to Mr. Woodbury, which for family reasons he declined. On leaving the cabinet Mr. Woodbury had resumed the practice of law, travelling the circuit in the vacations of Congress, as was the habit of the leading lawyers of New Hampshire.

In August, 1845, Mr. Justice Story resigned from the bench of the supreme court, and Mr. Woodbury was appointed to succeed that distinguished jurist. He accepted, and held all the courts of the Fall circuit. He was confirmed by the senate on its assembling. His remarkable industry and great powers of tracing a legal principle through many precedents and analogies now found a new and fertile field. His decisions in the circuit court can be found in the three volumes of Woodbury and Minot's Reports. In the supreme court his opinions are reported in from four to eleven Howard's reports. His contributions to constitutional law, to questions of admiralty jurisdiction, conflicts of state and federal jurisdiction, and the limits of executive power, were important, but in every branch of law his opinions show judicious discrimination of the true principle involved in the issue before him.

Mr. Woodbury's labors told on his iron frame, and though ill he completed the Spring circuit of 1851, and after delivering before Trinity College, Hartford, an address July 31, he returned home hoping that mental rest aud exercise on his farm would bring back his usual health; but in vain, and the absent members of his family were summoned to his side. He died Sept. 4, 1851.

Demonstrations of regret at his loss came from his fellow citizens and from the bar of his native state, from the circuit court he had presided over, from the circuit court of New York, and that of Pennsylvania and many others, and from the supreme court at Washington. The judges of the supreme court and the leaders of the bar bore witness to his courteous patience on the bench, to his ability, integrity and professional learning. It would exceed the limits of this article to repeat all that was eloquently said by distinguished leaders of all parties in commendation of the deceased, but I may be pardoned for referring to some special characteristics they commemorated without repeating the universal testimony they bear to his industry, ability, learning and integrity.

In the Supreme Court at Washington, Hon. J. J. Crittenden, attorney general, in offering the resolutions of the bar, said:

> Judge Woodbury was a man who for a long series of years occupied a most conspicuous position. The continued confidence reposed in him by his country, and the numerous honors which he shared, all testify to his greatness, and will be his noblest monument. * * * Judge Woodbury

was a man who wore his honors, great as they were, meekly, and it was his distinguishing merit that he thought much less of them than of the duties they entailed.

Chief Justice Taney replied:

His life had been passed mainly in the public service before he became a member of this court. And in the various and important offices, judicial and political, to which he had been appointed, he was always found equal to the duties imposed upon him, and never failed to distinguish himself by the extent and accuracy of his information upon every subject connected with his official duties, or upon which he was at any time called upon to act. * * * We all feel we have lost an able, upright and learned associate, and most truly and sincerely deplore his death.

In the New York Circuit Court Mr. J. Prescot Hall moved, and the Hon. Benjamin F. Butler, United States attorney general under Presidents Jackson and Van Buren, seconded the resolutions of the bar. Mr. Justice Nelson replied:

He was truly an able and painstaking judge. Patient if possible to a fault in listening to the arguments and authorities of counsel; and what is of equal if not higher merit, indefatigable in weighing the arguments and searching out the authorities referred to, so that counsel might be sure the client could have the benefit of them in the investigations and judgment of the court. * * * The private virtues and worth of the deceased were as exalted as his public character. Remarkable for the kindness of his disposition and amiability of temper, his intercourse with his brethren of the bench and bar was most agreeable and pleasant, ever ready to extend courtesy and respect where it was due, and especially guarded at all times against uttering an offensive word that might wound the feelings of an associate.

Mr. J. Prescott Hall, Mr. Butler, late attorney general of the United States, and Judge Betts of the District Court also were among the speakers.

In Pennsylvania Mr. George M. Dallas, seconding the resolutions presented by Mr. Ashmead, said:

He had uniformly exhibited talents of the most solid and brilliant character, accompanied with unvarying purity of moral purpose, and adorned by an unfading glow of true patriotism; such a citizen as Levi Woodbury was invaluable to any country, and he felt pride and pleasure in being permitted even briefly to bear his testimony to his merit.

Mr. Justice Grier, with whom was Judge Kane, replied:

The country has lost a most able and learned judge, a pattern of assiduity in the performance of his public duties, and the members of this court have to lament the loss of a beloved companion and brother.

Chief Justice Shaw presided over the bar meeting in Massachusetts. The resolutions, after expressing their opinion on his character and ability, proceed:

That in recalling the prominent traits of Judge Woodbury's public and private character we cannot forget the unvarying kindness which distinguished his intercourse with the members of this bar, nor the exact and ready attention to the slightest call of official or personal duty, which enabled him in the passage of every day to contribute something to the service of his fellow men.

At the proceedings in Belknap County, N. H., the Hon. Lyman B. Walker moved, and Gen. Franklin Pierce seconded the resolves. Hon. John J. Gilchrist, the Chief Justice, said:

The patient industry, the self-devotion, the determination to do his duty which he brought to the discharge of his various official responsibilities, are known to us all. The vigor in debate, the powerful reasoning which he brought to bear upon the important subjects that came before him both as an advocate and a senator, his consistent and unvarying fidelity to his political principles, and his dignified bearing, will long be remembered, not only in his own state but by the American people.

An appreciative, sympathetic and eloquent tribute to his memory was the eulogy of Hon. Robert Rantoul, Jr., delivered at Portsmouth at the request of the city government, where all is so well said it is difficult to select an extract, but Mr. Rantoul was a cherished friend and understood him. I cite the closing paragraph:

He believed the world to be upon the whole a good world, and worthy of its Maker; but he would not have so believed if he had not recognized in it what is its best quality, its capacity for improvement; this, which is sometimes the only consolation for the philanthropist grieving over the vice and misery around him, was the inspiring fact ever present in his thoughts, and impelling him in his exertions to assist the improvement and promote the progress in whose indefinite development the hopes of all good men centre. Without indulging in sanguine visions of the sudden transformation of man and society which the nature of man makes impossible to be realized, and which the wisdom of experience repudiates, he believed in what experience demonstrates—progress. He rejoiced in past progress; he felt and realized a present continuing progress. He trusted and confided in a future and indefinite progress. For this he struggled and toiled; to this he sacrificed ease and pleasure and health, and at last life itself, in the protracted martyrdom of overtasked powers, strained till the strings of life were broken in the service of his fellow men. In this as in all things, he lived quite up to the doctrine which it is so much easier to preach than to practise, the doctrine of the illustrious school to which he belonged, in which Jefferson, Madison, Langdon and Jackson were exemplars, that a statesman owes all his powers to his country.

Mr. Woodbury's taste for science had early led him to form collections of the botany and mineralogy of his native state; to these he afterwards added conchology. He delivered many public lectures before the National Institute and various college and historical societies, in which his earnest desire to promote progress, self-knowledge and independence of opinion among his countrymen, is mani-

fest. His eulogy on Gen. Jackson in 1845 showed a high appreciation of that remarkable man, formed through years of confidential intercourse.

In his eulogy Mr. Rantoul referred to the confidence of the democratic party in Mr. Woodbury, although he was withdrawn from politics, and continued:

> It is only a very few months since his native state of New Hampshire in full convention of the prevailing party here, again unanimously presented Mr. Woodbury's name for the presidency, and it is no disparagement to other eminent men who may have been thought to deserve the honors and to be competent to discharge the duties of that high station, to say that no event was more probable than his election to succeed the present incumbent in that office.

A summary of his speeches and views would not be appropriate here. I will say that the Compromises of 1850 received his warm support, as tending to preserve the Union he loved from perils he clearly foresaw. In the matter of religious liberty and toleration, won in New Hampshire in 1819 after twenty years of conflict, by repealing the power of towns to settle ministers and tax the minority for their support, when governor he avowed his adhesion to the new liberty. Again in 1848 he invoked in a letter the same principles in behalf of a charter for the College of the Holy Cross at Worcester, and again in 1850 in the New Hampshire Constitutional Convention he sought to remove constitutional disabilities from Catholics, which at a later day was accomplished.

Mr. Woodbury had a pleasing and flexible voice, and was a ready and impressive speaker at the bar, in the senate, before the people, and on the bench, placing less reliance on the flowers of oratory than on the logical array of the facts he wished to impress. "He was courteous in debate," remarks Mr. Rantoul. "He never allowed political prejudices to poison the sanctity of private intercourse."

The domestic life of Mr. Woodbury was singularly happy. At home he loved to have his family about him even when at work. Mrs. Woodbury always made her parlors attractive, and he joined in their social life more than would be expected. His wife and children survived him. The children were: Charles Levi; Mary Elizabeth, who married Judge Montgomery Blair, subsequently postmaster general under President Lincoln; Frances A., who married A. H. Lowery, Esq., of New York; Virginia L., who married Hon. G. V. Fox, assistant secretary of the navy under President Lincoln, and Ellen C. de Q., unmarried.

The engraving which illustrates this article is taken from a bust of Mr. Woodbury made when he was Secretary of the Treasury. The bust was modeled by a young Vermont man, a self-taught genius, then at the threshold of art, seeking some recognition among the public men at Washington, but who soon became the celebrated sculptor, Hiram Powers.

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